

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 8, 2007

D048949 Cohen v. Hilton Hotels Corporation

Appellant's request to vacate the dismissal is granted. The dismissal entered on December 7, 2006, is vacated. Appellant's request for a 14-day extension of time to file a request for dismissal is granted. The request for dismissal shall be filed within 14 days of the date of this order.

D049415 Phommachanh et al. v. Superior Court of San Diego County/People

Let a peremptory writ of mandate issue directing the superior court to vacate its September 14, 2006 order denying petitioners a continuance of their jury trial and enter an order granting them a reasonable continuance sufficient to obtain and evaluate the discovery obtained as a result of Judge Gill's discovery orders and prepare a jury challenge. The stay issued by this court on September 20, 2006, is vacated. The opinion is made final immediately as to this court. (Cal. Rules of Court, rule 8.264(b)(3)). O'Rourke, Acting P.J.; We Concur: Aaron, J., Irion, J.

D050036 In re Jamel A., a Juvenile

The notice of appeal, the minute orders of the December 18 and 19, 2006, hearings and the letter from Appellate Defenders, Inc., filed on January 4, 2007, have been read and considered by Presiding Justice McConnell and Associate Justices Aaron and Irion. The appeal is premature. If Jamel A. challenges the judgment after disposition, the notice of appeal should be filed in Los Angeles County where the matter has been transferred. (*In re Mary B.* (1971) 20 Cal.App3d 816, 819). The appeal filed on December 26, 2006, is DISMISSED.

D050035 In re Joshua Z., a Juvenile

The notice of appeal and the December 18, 2006, minute order have been read and considered by Presiding Justice McConnell and Associate Justices Aaron and Irion. An order placing a minor on informal supervision under Welfare and Institutions Code, section 654.2, is not an appealable order. (*Ricki J. v. Superior Court* (2005) 128 Cal.App.4th 783, 786). The appeal filed on December 26, 2006, is DISMISSED.

D049838 Shashun W. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Shashun W. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

D048503 In re Jonathan R. et al., Juveniles

Judgment affirmed. Aaron, J.; We Concur: Nares, Acting P.J., Haller, J.

D049037 People v. Dillard

The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., Nares, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

January 8, 2007 (Continued)

D045303 Whitty et al. v. First Nationwide Mortgage Corporation

The petition for rehearing is denied.

D047433 Mims v. San Diego County Employees Retirement Association

The petition for rehearing is denied.

D049824 Carmela W. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

No timely petition for writ relief has been filed for Carmela W. The notice of intent is deemed to be abandoned. The case as to Carmela W. is dismissed.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and James McIntyre

Clerk: D. Moore

D047721 People v. Brown

Cause called on merits. Gregory Marshall, Esq. argued for appellant. Sabrina Lane-Erwin, Deputy Attorney General argued for respondent. Mr. Marshall replied. Cause submitted.

Court recessed at 9:20 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre

D047954 Mazzearella, Dunwoody & Caldarelli, LLP v. Wood Green Investments Limited

Cause called on merits. Andrew Philip Dunk, Esq. argued for appellant. Margaret Grignon, Esq. argued for respondent, Chapin, Fleming. Mr. Dunk replied. Cause submitted.

Court recessed at 9:54 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Alex McDonald

D047429 Novi Industries, Inc. v. Schreiber Foods, Inc.

Cause called on merits. Khalil Ahmad, Esq. argued for appellant. Scott L. Metzger, Esq. argued for respondent. Mr. Ahmad replied. Cause submitted.

D046600 Jones v. The Lodge at Torrey Pines Partnership et al.

Cause called on merits. Scott Harrison Toothacre, Esq. argued for appellant/cross-respondent. Barry R. Levy, Esq. argued for respondent/cross-appellant, The Lodge at Torrey Pines Partnership. Michael S. Kalt, Esq. argued for respondent, Weiss. Mr. Toothacre replied. Mr. Levy replied. Cause submitted.

Court recessed at 10:53 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

January 8, 2007 (Continued)

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre
Clerk: D. Moore

D046851 People v. Ray

Cause called on merits. Carl Fabian, Esq. argued for appellant. Marissa Bejarano, Deputy Attorney General argued for respondent. Mr. Fabian replied. Cause submitted.

D047504 Thomas v. Kawesch et al.

Cause called on merits. Mark Nelson, Esq. argued for appellant. Duane Albert Admire, Esq. was present in oral argument for appellant, but did not argue. Gabriel M. Benrubi, Esq. argued for respondent. Michelle Lopez, Esq. was present in oral argument for respondent, but did not argue. Mr. Nelson replied. Cause submitted.

D048783 Williams v. Interinsurance Exchange of the Automobile Club

Cause called on merits. John Tinley Brooks, Esq. argued for appellant. Kevin Green, Esq. argued for respondent. Mr. Brooks replied. Cause submitted.

Court recessed at 2:35 p.m. to change panel members. New panel members: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Joan Irion.

D049407 Jacobson, et al. v. Bilbray, et al.

Cause called on merits. Kenneth Lee Simpkins, Esq. argued for appellant. Paul R. Lehto, Esq. was present in oral argument for appellant, but did not argue. David Alan King, Esq. argued for respondent, Bilbray. James M. Chapin, Deputy County Counsel argued for respondent, Haas. Mr. Simpkins replied. Cause submitted.

Court recessed at 3:30 p.m. until Tuesday, January 9, 2007 at 9:00 a.m.

D049456 In re Origen on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 9, 2007

D046440 People v. Davis

The judgment is affirmed. The cross-appeal, filed by the district attorney and subsequently abandoned, is dismissed. Irion, J.; We Concur: Haller, Acting P.J., Aaron, J.

D047909 In re Rafael G., a Juvenile

The judgment is reversed. The matter is remanded to the trial court with directions to exercise its discretion to set Rafael's maximum term of physical confinement under the facts and circumstances of this case, pursuant to the second sentence of section 731, subdivision (b). The trial court is also instructed to declare whether the assault with force likely to produce great bodily injury in count 3 is a felony or misdemeanor pursuant to section 702 and, if a felony, to determine whether section 707, subdivision (b) applies to count 3. The court is further directed to stay the term of commitment imposed on count 3 pursuant to Penal Code section 654, to amend the commitment order to impose a \$100 restitution fine, and to amend the commitment order to state that the robbery conviction on in count 2 is a felony. Finally, the trial court shall determine Rafael's maximum period of imprisonment pursuant to the first sentence of section 731, subdivision (b) and enter a new commitment order consistent with this opinion. Aaron, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D049526 City of Escondido v. Superior Court of San Diego County/Nastich et al.

The petition is denied.

D047795 Sullivan v. Touchet

The order is affirmed. McConnell, P.J.; We Concur: Benke, J., McDonald, J.

D049982 F. v. P.

Because appellant did not timely pay the filing fee, the appeal is dismissed.

D048532 People v. Long

D048737 People v. Long

D048738 People v. Long

D048739 People v. Long

(Consolidated) The judgments are affirmed. McDonald, J.; We Concur: Haller, Acting P.J., Aaron, J.

D047347 Schatz v. Allen Matkins Leck Gamble & Mallory LLP

The order is affirmed. Dr. Schatz is entitled to costs on appeal.

CERTIFIED FOR PUBLICATION McConnell, P.J.; We Concur: Huffman, J., Aaron, J.

D049803 DTG Operations Inc., v. Superior Court of San Diego County/Taylor et al.

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

January 9, 2007 (Continued)

D042640 The Copley Press, Inc. v. County of San Diego et al.

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2)).

Court convened at 9:00 a.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke
Clerk: D. Moore

D048962 Williams v. Superior Court/Mayes-RPI

Matter called on merits. John Morris, Esq. argued for petitioner, Williams. David A. Niddrie, Esq. argued for real party in interest, Mayes. Mr. Morris replied. Robert Bruce Ingram, Esq. argued for petitioner, R. K. Williams. Matter submitted.

Court recessed at 9:40 a.m. to change panels. New panel members: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Joan Irion

D047924 Chapman v. California State Personnel Board

Cause called on merits. Barbara S. Chapman, argued for appellant, in pro per. Martin W. Hagan, Deputy Attorney General argued for respondent. Ms. Chapman replied. Cause submitted.

Court recessed at 10:24 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke

D047206 Guishard et al. v. Day

Cause called on merits. Sam Henein, Esq. argued for appellant. Rocky K. Copley, Esq. argued for respondent. Mr. Henein replied. Cause submitted.

D048345 Shandralina G., a Minor etc. v. Homonchuk

Cause called on merits. Brian R. Riley, Esq. argued for appellant. Dean Robert Broyles, Esq. was present in oral argument for appellant, but did not argue. Kenneth J. Medel, Esq. argued for respondent. Mr. Riley replied. Cause submitted.

D046948 Schmitt v. McCarty

Cause called on merits. Janice R. Mazur, Esq. argued for appellant and cross-respondent. Sharron Voorhees, Esq. argued for respondent and cross-appellant. Ms. Mazur replied. Ms. Voorhees replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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January 9, 2007 (Continued)

Court recessed at 11:13 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Cynthia Aaron and Joan Irion
Clerk: D. Moore

D047926 Bethany Lutheran College Inc., et al. v. Gentry as Trustee etc., et al.

Cause called on merits. David A. Kay, Esq. argued for appellant. James S. Graham, Esq. argued for respondent. Mr. Kay replied. Cause submitted.

Court recessed at 2:00 p.m. to change panel members. New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Joan Irion

D047862 High Tide Cafe v. G. R. Bill Business Brokers, Inc.

Cause called on merits. James C. Mitchell, Esq. argued for appellant. Steven Wilhelm, Esq. argued for respondent. Mr. Mitchell replied. Cause submitted.

D047040 Austin B., a Minor etc., et al. v. Escondido Union High School District et al.

Cause called on merits. Andrea R. Leavitt, Esq. argued for appellant. Paul Carelli, Esq. argued for respondent. Ms. Leavitt replied. Cause submitted.

Court recessed at 3:24 p.m. to change panel members. New panel members: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Joan Irion

D047583 Hamil v. Ethan Allen, Inc.

Cause called on merits. Michael Singer, Esq. argued for appellant. Betsy Johnson, Esq. argued for respondent. Mr. Singer replied. Cause submitted.

Court recessed at 4:00 p.m. until Wednesday, January 10, 2007 at 9:00 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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D049540 In re Frederico A., a Juvenile

The appeal is dismissed. Irion, J.; We Concur: Benke, Acting P.J., McIntyre, J.

D049235 People v. Carman

The judgment is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Benke, J.

D048765 People v. Bloom

The judgment is affirmed. Huffman, Acting P.J.; We Concur: McIntyre, J., Irion, J.

D047643 People v. Mendoza

The judgment is affirmed. Irion, J.; We Concur: Huffman, Acting P.J., Nares, J.

D048238 Suarez v. Colosimo

The judgment is affirmed. Costs are awarded to the respondent. Huffman, J.;
We Concur: Benke, Acting P.J., Aaron, J.

D049508 In re Sarah C., a Juvenile

The appeal is dismissed. Benke, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

D049592 People v. Lang

The judgment is affirmed. McDonald, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

**D049782 Shakirah P. et al. v. Superior Court of San Diego County/San Diego County
Health and Human Services Agency**

Following the filing of notices of intent by Shakirah P. and Julian P. to file petitions for writ of mandate under California Rules of Court, rules 8.452 and 5.600, Shakirah P. filed a notice of appeal on December 26, 2006, from the juvenile court's denial of her Welfare and Institutions Code section 388 petition at the November 6, 2006 contested modification hearing, setting the Welfare and Institutions section 366.26 permanency planning hearing on January 19, 2007. The juvenile court forwarded her notice of appeal with relevant minutes that were already included in the existing record prepared as a result of the pending notices of intent. Given that any challenge to the findings and orders of the juvenile court in setting the section 366.26 hearing must be raised in the writ petition (*Anthony D. v. Superior Court* (1998) 63 Cal.App.4th 149, 152-156; Welf. & Inst. Code, § 366.26, subd. (1); Cal. Rules of Court, rules 5.600, 8.450 & 8.452), the court incorporates the notice of appeal into the writ record.

By letters dated December 26, 2006, attorneys for both petitioners notified the court that a petition for writ of mandate under the cited rules would not be filed because of the absence of any viable issues for writ review. Due to the timing of the letters, the court inquired of Shakirah P.'s counsel whether he in fact considered the denial of her Welfare and Institutions Code section 388 petition in reviewing the record and concluding that there were no viable issues for an extraordinary writ in this case. By letter dated January 2, 2007, he replied he did. The case is DISMISSED.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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DIVISION ONE

January 10, 2007 (Continued)

D049843 Ramon B. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Ramon B. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 and 5.600 will not be filed. The case is dismissed.

D049969 Darlene K. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Darlene K. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 and 5.600 will not be filed because there are no viable issues for writ review. The case is dismissed.

D049854 Arnulfo V. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Arnulfo V. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 and 5.600 will not be filed. The case is dismissed.

D050059 In re Aguilera, Jr. on Habeas Corpus

The petition for writ of habeas corpus *In re Aguilera* (D050059) will be considered with the pending appeal, *People v. Aguilera* (D048631).

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Terry O'Rourke
Clerk: D. Moore

D047828 People v. Canela

Cause called on merits. Lewis A. Wenzell, Esq. argued for appellant. Christine Levingston-Bergman, Deputy Attorney General argued for respondent. Cause submitted.

D048237 Underground Utilities, Inc. v. County of San Diego et al.

Cause called on merits. Kevin T. Cauley, Esq. argued for appellant. Michael Raymond McGuinness, Esq. argued for respondent, Sundt Construction. Timothy M. Barry, Esq. argued for respondent, County of San Diego. Mr. Cauley replied. Cause submitted.

D046696 People v. Mayo

Cause called on merits. Michelle Rogers, Esq. argued for appellant. James Dutton, Deputy Attorney General argued for respondent. Ms. Rogers replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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Court recessed at 9:39 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Cynthia Aaron and Terry O'Rourke

D047840 Rusk v. Timm et al.

Cause called on merits. Jerry D. Hemme, Esq. argued for appellant. Mark B. Bennett, Esq. argued for respondent. Mr. Hemme replied. Cause submitted.

Court recessed at 10:00 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron
Clerk: D. Moore

D048027 In re Jesus S., a Juvenile

Cause called on merits. Patrick Morgan Ford, Esq. argued for appellant. Elizabeth Voorhies, Deputy Attorney General argued for respondent. Cause submitted.

Court recessed at 1:54 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Cynthia Aaron and Joan Irion

D047541 People v. Saunders

Cause called on merits. Marianne Harguindeguy, Esq. argued for appellant. Elizabeth Voorhies, Deputy Attorney General argued for respondent. Ms. Harguindeguy replied. Cause submitted.

D047987 Hillyard v. Department of Motor Vehicles

Cause called on merits. Chris A. Knudsen, Deputy Attorney General argued for respondent. Lisa Kay Baughman, Esq. argued for respondent. Mr. Knudsen replied. Cause submitted.

Court recessed at 2:24 p.m. until Thursday, January 11, 2007 at 9:00 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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DIVISION ONE
January 11, 2007

D046851 People v. Ray

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., McIntyre, J.

D049571 In re D. S. et al., a Juvenile

The appeal is dismissed. O'Rourke, J.; We Concur: Benke, Acting P.J., Aaron, J.

D049494 Vallandingham v. Workers' Compensation Appeal Board and Jack-in-the-Box et al.

The petition is dismissed. The parties' respective requests for sanctions under section 5813 are denied.

D050023 Flannery v. Superior Court of San Diego County/Gafford

The petition is denied.

D048594 People v. Mayles

The judgment is affirmed. McDonald, J.; We Concur: McConnell, P.J., Aaron, J.

D048854 People v. Rhine

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., Irion, J.

D048773 In re Aniya D., a Juvenile

The judgment and orders are affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., Haller, J.

D049115 In re Alexis I., a Juvenile

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., Irion, J.

D047206 Guishard et al. v. Day

The order is affirmed. Day is entitled to costs on appeal. McDonald, J.;
We Concur: McConnell, P.J., O'Rourke, J.

D048486 People v. Woodfork

The judgment is affirmed. Irion, J.; We Concur: McConnell, P.J., Huffman, J.

D048446 In re Harmonie R., a Juvenile

The appeal is dismissed. Nares, J.; We Concur: Huffman, Acting P.J., Irion, J.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Judith Haller

Clerk: D. Moore

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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January 11, 2007 (Continued)

D048968 In re Joe C., a Juvenile

Cause called on merits. Richard Pfeiffer, Esq. argued for appellant. Katherine Bird, Deputy County Counsel argued for respondent. M. Elizabeth Handy, Esq. argued for the minor. Mr. Pfeiffer replied. Cause submitted.

Court recessed at 9:24 a.m. to change panel members. New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald

D045992 People v. Barno

Cause called on merits. Jerome P. Wallingford, Esq. argued for appellant. Lilia Garcia, Deputy Attorney General argued for respondent. Mr. Wallingford replied. To be submitted at a later date.

Court recessed at 10:00 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Joan Irion

D047318 Bivens v. Banner Bedding, Inc.

Cause called on merits. Scott A. McMillan, Esq. argued for appellant. Adam Johnson Thurston, Esq. argued for respondent. Mr. McMillan replied. Cause submitted.

Court recessed at 10:30 a.m. until 1:30 p.m.

D047042 In re Player on Habeas Corpus

The relief requested in the petition is granted. The Department of Corrections and Rehabilitation is directed to award Player favorable behavior points for average or above performance in accordance with this opinion and to review Player's designation, program, placement and privileges in light of his new classification score. CERTIFIED FOR PUBLICATION. Huffman, Acting P.J.; We Concur: Nares, J., O'Rourke, J.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Richard Huffman and Joan Irion
Clerk: D. Moore

D048774) In re Robert S., a Juvenile

D048812) In re Robert S., a Juvenile

Cause called on merits. Kathleen M. Mallinger, Esq. argued for appellant. Paula Roach, Deputy County Counsel argued for respondent. Andrea St. Julian, Esq. argued for the minor. Ms. Mallinger replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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January 11, 2007 (Continued)

D047697 Borrego Water District et al. v. AES Corp. et al.

Cause called on merits. Pamela M. Parker, Esq. argued for appellant, Hendricks. Douglas R. Tribble, Esq. argued for respondent, Cabrillo Power I, LLC and etc. Daniel Murray Wall, Esq. argued for respondent, Sempra Energy, Inc. Ms. Parker replied. Cause submitted.

Court recessed at 2:50 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre.

D049298 SDG&E Company v. Harris et al.

Cause called on merits. C. Larry Davis, Esq. argued for petitioner, San Diego Gas & Electric. Richard Benes, Esq. argued for real parties in interest, Harris et al. Cause submitted.

Court adjourned at 4:11 p.m.

D048596 Sanders v. Ryan et al.

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed.

D050074 People v. Lane

The November 17, 2006, minute order and notice of appeal filed on December 27, 2006, have been read and considered by Presiding Justice McConnell and Associate Justices Aaron and Irion. The notice of appeal is premature because no appealable order or judgment has been entered. (People v. Murphy (1969) 70 Cal.2d 109, 115; People v. Barnett (1995) 35 Cal.App.4th 1,3). The appeal is dismissed without prejudice to refile a notice of appeal after an appealable order or judgment has been entered.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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January 12, 2007

D047894 Black Hills Investments Inc., v. Albertson's Inc.,

The judgment is affirmed. The matter is remanded to the trial court for its determination of an award of attorney fees and costs on appeal to Black Hills. CERTIFIED FOR PUBLICATION. Nares, Acting P.J.; We Concur: McDonald, J., Irion, J.

D047926 Bethany Lutheran College, Inc. v. Gentry et al.

We reverse the probate court's order insofar as it ruled that the Bethany entities' proposed challenges to the 2003 Amendment would not violate the no contest clause in the Trust Declaration; in all other respects the order is affirmed. The parties are to bear their own costs. Irion, J.; We concur: Haller, Acting P.J., Aaron, J.

D047968 Deutsch v. Deutsch et al.

The judgment is affirmed in its entirety. Respondents are awarded their costs on appeal. McIntyre, J.; We Concur: Nares, Acting P.J., Haller, J.

D048847 People v. Hosaka

The judgment is affirmed. The trial court is directed to amend the abstract of judgment accordingly, and to send a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation. McConnell, P.J.; We Concur: McDonald, J., Aaron, J.

D046853 People v. Hunter

The judgment is affirmed in part and reversed in part. The matter is remanded and the trial court instructed to amend the abstract of judgment to reflect that the fine imposed under Penal Code section 1202.45 shall be for \$1200.00, and forward the amended abstract to the Department of Corrections and Rehabilitation. The judgment is otherwise affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., Nares, J.

D047583 Hamil v. Ethan Allen, Inc.,

The appeal is dismissed. Irion, J.; We Concur: Haller, Acting P.J., McIntyre, J.

D048610 In re Cynthia E. et al., Juveniles

The orders and judgments are affirmed. Haller, J.; We Concur: Benke, Acting P.J., McIntyre, J.

D048264 California Chiropractic Association v. American Specialty Health Plans of California Inc., et al.

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2)). Each party to bear own costs on appeal.

D048480 Etherton v. Etherton

The request for publication of the opinion is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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D050108 Parinello v. Superior Court of San Diego County/Durbin
The petition is denied